

No. 9298-I Lab-70/31331.—In pursuance of the provisions of Section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Haryana, Faridabad in respect of the dispute between the workmen and the management of M/s Steel Crafts Panipat District, Karnal.

BEFORE SHRI P. N. THUKRAL, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL, HARYANA, FARIDABAD

Reference No. 2 of 1969

between

THE WORKMEN AND THE MANAGEMENT OF M/S STEEL KRAFTS PANIPAT DISTRICT KARNAL

Present :—

Shri Raghbir Singh, for the workmen.

Shri Roshan Lal, for the management.

AWARD

The management of M/s Steel Crafts Panipat District Karnal are partly getting their welding work done through the contractors. There was a settlement between the parties regarding work which the management could get done through the contractors. The grievances of the workmen is that the management have given the job which was being done by the permanent employees to the contractors after the settlement and they desired that the contract should be abolished. The management were not agreeable to this demand and this gave rise to an industrial dispute. Accordingly the Governor of Haryana, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947, referred the following dispute to this Tribunal for adjudication,—*vide* Government Gazette Notification No. ID/KNL/40-68/A/31864, dated 27th December, 1968.

“whether the contract system in welding section should be abolished and the workers of this section be treated as regular workers of the factory? If so, with what details and from which date?”

On receipt of the reference usual notices were issued to the parties in response to which the workmen filed their statement of claim and the management filed their written statement to which the workmen also filed their rejoinder. It is stated on behalf of the workmen that the work of welding is of permanent nature and the workmen employed in the Welding Section are piece-rated. It is pleaded that the management have introduced the contract system as a result of which less work is provided to the permanent workmen which is against their interests. It is also alleged that the contract system has been introduced in order to disrupt the unity and the trade union activities of the workers.

On behalf of the management a preliminary objection has been raised that the present reference is illegal, void and without jurisdiction as a dispute with regard to the abolition of contract system was earlier raised by the workmen and this dispute was settled through an agreement dated 10th August, 1966 which was arrived at between the parties under section 12 (3) of the Industrial Disputes Act. It is alleged that the said settlement is binding on the parties for a period of 5 years and as such this demand could not be raised or referred for adjudication. On merits the management admit the allegations of the workmen that the welding work is of a permanent nature and that the workers employed in the welding section are generally piece, rated but it is pleaded that the management have been partly getting the welding work done on contract basis from the very beginning. It is denied that giving the welding work to contractors has in any way prejudiced the interest of permanent workers. The following preliminary issue was framed

“Whether the dispute for the abolition of contract system was earlier raised by the workmen and a settlement dated 10th August, 1966 binding for 5 years was arrived at and therefore the present reference is not valid”?

The management examined Shri B. D. Singla the managing partner in support of this issue but before his evidence could be concluded the management gave an application objecting to the validity of the appointment of the Presiding Officer of this Tribunal to dispose off this reference. The following two additional issues were accordingly framed.

1. Whether the appointment of the Presiding Officer of the Tribunal is void?

2. Whether the objection regarding the validity of the appointment of the Presiding Officer can not be raised at this stage ?

After hearing the learned representative of the parties, the additional issues were decided in favour of the workmen,—vide the orders of this Tribunal dated 21st November, 1969 which is annexure A to this Award. Shri R. L. Gupta, who represents the management then made a statement that the reference may be also decided on merits along with the preliminary objections. The following issue on merits was accordingly framed.

"Whether the contract system in welding section should be abolished and the workers of this section be treated as regular workers of the factory? If so, with what details and from which date?"

It is not necessary to decide the case on merits because a compromise has been effected between the parties. It is agreed between the parties that there is at present one contractor with about 10 employees with him and he shall continue to work for a period of one year if he so desired and thereafter he would not be given any work and the contract system in the welding section shall come to an end. It is agreed that in future the work would be got done from direct employees but in the case of emergency if workmen are not available at any time then the management would write to the Employment Exchange with a copy to the union for recruitment of suitable employees on the existing wage rates as that time and if no suitable workmen are available from the above agencies within 15 days of the issue of the letter the management would be entitled to get the additional work done on contract basis for a period not exceeding three months at a time.

The statement of the representative of the parties have been recorded and they admit the correctness of this settlement which appears to be fair and reasonable. I give my award accordingly. No order as to cost.

P. N. THUKRAL,
PRESIDING OFFICER,

Dated 9th October, 1970

Industrial Tribunal, Haryana,
Faridabad

No. TP/14, dated 20th October, 1970

Forwarded (four copies) to the Secretary to Government Haryana, Labour and Employment Departments Chandigarh, as required under, section 15 of the Industrial Disputes Act, 1947.

P. N. THUKRAL,
PRESIDING OFFICER,

Dated 9th October, 1970

Industrial Tribunal, Haryana,
Faridabad.

BEFORE SHRI P. N. THUKRAL, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL,
HARYANA, FARIDABAD

Reference No. 2 of 1969

between

THE WORKMEN AND THE MANAGEMENT OF M/S STEEL CRAFTS, PANIPAT.

Present:—

Shri Raghbir Singh, for the workmen.

Shri Balak Ram, for the management.

ORDER

An application has been filed on behalf of the management that the appointment of the Presiding Officer of this Tribunal is not valid. The following additional issues were accordingly framed which need preliminary decision.

1. Whether the appointment of the Presiding Officer of the Tribunal is void ?

2. Whether the objection regarding the validity of the appointment of the Presiding Officer cannot be raised at this stage?

The representative of the management while filing the objections briefly submitted the reasons in support of the objections raised in their application. However it was considered necessary that complete argument should be heard before disposing of the objection and the act was adjourned to 11th November, 1969 for arguments. On the date fixed neither party appeared. Instead another application was received from the management requesting for adjournment on the ground that the management is contemplating to file a Civil Writ if so advised by their Advocate but the matter could not be discussed with him. It is submitted that if the request for adjournment is not granted then the preliminary issue be decided in the light of the argument already mentioned in the application itself as no new argument are to be advanced and the case be fixed for further proceedings.

The reason given in the application in support of the objection that the appointment of the undersigned as Presiding Officer of the Industrial Tribunal is not valid is that the appointment of the undersigned has been made in his capacity as Presiding Officer of the Labour Court, Faridabad and that too in addition to his duties as Presiding Officer of the Labour Court Faridabad and not independently. It is submitted that the High Court in Civil Writ Petition No. 1129 of 1969 in the case of M/s Gedore Tool India (P) Ltd, VS the State of Haryana has been pleased to hold that the appointment of the undersigned as Presiding Officer, Labour Court, Faridabad is not legal and is void and in view of this decision the appointment of the undersigned as Presiding Officer of the Industrial Tribunal in addition to his duties as Presiding Officer Labour is automatically rendered void.

I have carefully considered the objections and in my opinion there is no substance in them. The Governor of Haryana has been pleased to appoint the undersigned as Presiding Officer of the Industrial Tribunal, — *vide* Notification No. 10288-ASOIII-Lab-68/28487 dated 20th November, 1968, the word "Presiding Officer of the Labour Court, Faridabad" in this notification are only descriptive of the officer who has been appointed to act as Presiding Officer of the Industrial Tribunal. It is not correct to say that the appointment of the undersigned as Presiding Officer of the Industrial Tribunal is his capacity as Presiding Officer of the Labour Court because obviously as Presiding Officer of the Labour Court one can not act as Presiding Officer of the Industrial Tribunal as well. These two appointments can not be mixed together although one officer may be appointed to perform both the functions. If the appointment to one office is held to be not legal it would not automatically mean that the appointment to the other office is also not legal. In my opinion there does not appear any defect in the appointment of the undersigned as Presiding Officer of the Industrial Tribunal. Accordingly, find this issue in favour of the workmen.

Issue No. 2. It is also doubtful if an objection that the appointment of the Presiding Officer is not valid can be raised before that very Presiding Officer because if what the management submits is ultimately held to be correct then any decision given by such a Presiding Officer can have no force in the eye of law and as such there is no point in raising this objection before him. The only remedy as suggested by the management themselves in their application for adjournment is to approach to the High Court and I find this issue also in favour of the workman.

The case to come up for further proceedings on 8th December, 1969 at Panipat. The parties be informed of the order immediately.

P.N. THUKRAL

Dated 21st November, 1969

Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

B. L. AHUJA,
Commissioner for Labour and Employment
and Secretary to Government, Haryana,

INDUSTRIES DEPARTMENT

CORRIGENDUM

The 3rd/4th November, 1970

No. 10152-2IB (I)-70/31226.—The scale of pay shown as 700-60-1000/50-1,250 under the column appointment in Haryana Government notification No. 10152-2IB (I)-70/29504, dated 26th October, 1970 may be read as 700—50—1,000/50—1,250.

M. L. BATRA,
Secy.